



# *The Commonwealth of Massachusetts*

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November 25, 2005

### CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS ESTABLISHING A SPECIAL REVIEW PROCEDURE

PROJECT NAME: Neptune Deepwater Port Project  
PROJECT MUNICIPALITY: Off-Shore waters of Manchester-by-the-Sea, Beverly, Salem and Marblehead  
PROJECT WATERSHED: Massachusetts Coastal  
EOEA NUMBER: 13641  
PROJECT PROPONENT: Neptune LNG, LLC  
DATE NOTICED IN MONITOR: October 8, 2005

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.09 of the MEPA regulations (301 CMR 11.00), I hereby establish a **Special Review Procedure** to guide the MEPA review of this project. In a separate Certificate issued today, I have determined that this project requires the preparation of an Environmental Impact Report (EIR) pursuant to Section 11.03 of the MEPA regulations.

As described in the Environmental Notification Form (ENF), the proposed project entails the construction of a Deepwater Port (DPW) in Massachusetts Bay, located in the federal waters of the Outer Continental Shelf (OCS) block NK 19-04 6525 and NK 19-04 6575, approximately 22 miles northeast of Boston and approximately 7 miles south-southeast of Gloucester, in a water depth of approximately 250 feet. The deepwater port, to be named Neptune, would receive and vaporize Liquefied Natural Gas (LNG) from a purpose-built and dedicated fleet of shuttle regasification vehicles (SRVs) equipped with vaporization equipment that would convert the LNG to natural gas. The Neptune deepwater port would be capable of mooring up to two LNG carriers, with a capacity of approximately 140,000 cubic meters, by means of a submerged unloading buoy system.

The natural gas would be transported to shore by a pipeline lateral that connects the deepwater port to the existing 30-inch Algonquin HublineSM approximately 9 miles west of the

proposed deepwater port location. From shore, natural gas would be transported to serve residential, commercial, industrial and electricity generation consumers, primarily in the New England area. Approximately 9.9 miles of the pipeline lateral is within State waters, and approximately 0.9 miles is within Federal waters.

The project involves actions by and coordination among numerous state and federal agencies. The proponent has requested that the project undergo coordinated review<sup>1</sup> by MEPA and the United States Coast Guard (USCG), the lead federal agency responsible for review of the projects pursuant to the National Environmental Policy Act (NEPA) and preparation of the federal Environmental Impact Statement (EIS)<sup>2</sup>. The Executive Office of Environmental Affairs (EOEA), the USCG and the proponents have all indicated a desire for coordinated MEPA/NEPA review to the maximum extent feasible. To successfully coordinate the review process among the USCG and MEPA, a degree of administrative flexibility in reviewing the project pursuant to MEPA is necessary. After considering the factors cited in Section 11.09 of the MEPA regulations, I hereby find that the review of the projects would benefit from the establishment of a Special Review Procedure.

The Special Review Procedure is largely for administrative convenience, designed to allow for coordinated NEPA/MEPA review of an EIS/EIR document consistent with the requirements and constraints imposed by state and federal regulations. It is my hope and intention to work with the USCG and the proponents to coordinate the review process to such an extent that the review process can follow the usual draft and final EIR format, and I wish to commend the USCG for its support to date of the coordinated review concept. In order to ensure that the proposed projects fully comply with MEPA, I have developed the following SRP in the event that additional documentation (outside of the USCG processes) is required to ensure compliance with MEPA.

### **SPECIAL REVIEW PROCEDURE**

The MEPA and NEPA processes will be coordinated as follows. The EIR process will consist of the filing of a minimum of two documents: a Draft EIR and a Final EIR. The USCG will prepare and circulate a Draft EIS, which will also serve as the Draft EIR. I will review the Draft EIR, coordinate comment periods with the USCG to the maximum feasible extent, and issue a decision on the Draft EIR following the close of the public comment period.

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1 The term "coordinated review" as used in this Certificate and in the MEPA regulations refers to the practice of allowing a single set of documents to serve simultaneously as both an EIS under NEPA and an EIR under MEPA. In common usage, the practice is sometimes referred to as "joint review," although this term is misleading since both the USCG and EOEA retain independent authority to judge the adequacy of the information submitted pursuant to their respective statutory and regulatory responsibilities.

2 The primary federal approval for the Deepwater Port Project is a license under the federal Deepwater Port Act. The U.S. Secretary of Transportation delegated the processing of deepwater port applications to the USCG and the Federal Maritime Administration.

The proponents have committed to working with the USCG to the extent allowed by the USCG regulations to ensure that the EIS prepared by the USCG adequately serves as the EIR required under MEPA. In addition, I will continue to work cooperatively with the USCG to ensure the success of a coordinated review process. Because the USCG prepares the EISs, rather than the proponents, a situation may arise following review of the Draft EIS whereby the Draft EIS is adequate as an EIS and generally adequate as an EIR as well, but has left unresolved certain issues pertinent to the MEPA review. If this is the case, and if there remain sufficiently important items from the scope that are unaddressed in the Draft EIR, I reserve the right to find the Draft EIR adequate but nonetheless require the preparation of a Supplemental Draft EIR, and issue a Certificate guiding the content of the supplemental document. In my Certificate on the Draft EIR, I will make specific findings as to whether I am invoking this provision of the Special Review Procedure. This administrative mechanism gives me adequate assurance that the Draft EIS prepared by the USCG can form the basis of the Draft EIR under MEPA. In addition to this special mechanism, I also reserve all rights granted to me by Section 11.08(8) of the MEPA regulations regarding determinations of adequacy of the Draft EIR.

Following review of the Draft EIS/EIR, the USCG will prepare and circulate a Final EIS. This document will also serve as the Final EIR. I will again coordinate comment periods with the USCG to the maximum feasible extent, and issue a decision on the adequacy of the Final EIR after the close of the MEPA comment period. Because the USCG prepares the EIS, rather than proponents, a situation may arise following review of the Final EIS whereby the Final EIS is adequate as a Final EIS and generally adequate as a Final EIR as well but has left unresolved certain issues pertinent to the MEPA review. If this is the case, and if there remain sufficiently important items from the scope that are unaddressed in the Final EIR, I reserve the right to find the Final EIR adequate but nonetheless require the preparation of a Supplemental Final EIR, and issue a Certificate guiding the content of the supplemental document. I will make specific findings in the Certificate on the Final EIR as to whether I am invoking this provision of the SRP. If this provision were invoked, the Supplemental Final EIR would be considered the final review document in the MEPA review process (see Section 11.09(1) of the MEPA regulations) for purposes of appeal periods and timing of required state Agency Actions. This administrative mechanism gives me adequate assurance that the Final EIS prepared by the USCG can form the basis of the Final EIR under MEPA. In addition to this mechanism, I also reserve all rights granted to me by Section 11.08(8) of the MEPA regulations regarding determinations of adequacy of the Final EIR.

The EIS documents will follow the USCG regulations for outline and content. I anticipate that the EIS will include the content of the required EIR, although data presentation and sequence may be different from the usual structure of an EIR as specified in Section 11.07 of the MEPA regulations. As such, I will not expect the EIS/EIR document to follow the general guidelines for outline contained in Section 11.07. However, to aid reviewers in finding information relevant to the EIR process, I ask that the EIS documents include a cross-reference index or other form of content guide that explains which sections of the EIS correspond to requirements of the EIR. I also ask that the EIS include a copy of this Certificate and the Certificate on the ENF issued separately today, as well as copies of the comments received. All

of these documents (as well as any other documents related exclusively to MEPA review) may appear in an appendix to the EIS.

The proponents' signature below indicates their consent to the establishment of a Special Review Procedure and the specific provisions outlined in this Certificate.

11/28/05  
Date

Stephen R. Pritchard  
Stephen R. Pritchard  
EOEA Secretary

11/23/05  
Date

Marc A. Silver  
Marc A. Silver, Senior Counsel  
Neptune LNG, LLC